

United States District Court
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

AMANDA FRLEKIN, *et al.*, on behalf of
themselves and all others similarly situated,

No. C 13-03451 WHA
No. C 13-04727 WHA

Plaintiffs,

v.

APPLE, INC.,

Defendant.

**ORDER DISMISSING CLAIMS,
CONSOLIDATING CASES, AND
REQUESTING BRIEFING**

TAYLOR KALIN, individually and on behalf
of all others similarly situated,

Plaintiffs,

v.

APPLE, INC.,

Defendant.

On December 9, the Supreme Court decided *Integrity Staffing Solutions, Inc. v. Busk*, No. 13-433, 574 U.S. —, 2014 WL 6885951, at *7 (2014). Accordingly, the partial stay herein was lifted and supplemental briefing was requested.

First, the two above-captioned actions are hereby **CONSOLIDATED FOR ALL PURPOSES**. All filings shall be made in *Frlekin, et al. v. Apple, Inc.*, No. 3:13-cv-03451-WHA, and deemed to have been filed in both actions.

Second, named plaintiffs Dean Pelle, Adam Kilker, and Brandon Fisher's individual claims under the FLSA, New York, Massachusetts, and Ohio state law are hereby **DISMISSED WITH PREJUDICE**. Both sides agree that these claims do not survive *Busk* (Dkt. Nos. 210, 211).

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1 This dismissal, of course, is only as to the named plaintiffs' individual claims since no class has
2 been certified.

3 *Third*, the parties raise two issues: (1) whether plaintiffs should be allowed leave to file a
4 new consolidated complaint that combines the claims in *Frlekin* and *Kalin* and (2) whether
5 jurisdiction should be exercised over the remaining claims (which are only California state-law
6 claims) under supplemental jurisdiction or the Class Action Fairness Act, 28 U.S.C. 1332(d).
7 To tee this up, plaintiffs' counsel shall file a motion for leave to file a second amended complaint
8 by **JANUARY 6 AT NOON**, noticed on a normal 35-day track. Plaintiffs shall please append
9 redlines showing the differences between the new pleading and the pleadings in *Frlekin* and
10 *Kalin*. Plaintiffs must plead their best and most plausible case. In light of this, Apple need not
11 file a reply regarding *Busk* by December 29.

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IT IS SO ORDERED.

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Dated: December 23, 2014.

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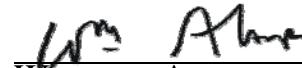
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WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE